

IN THE SENATE OF THE UNITED STATES.

March 24, 1858.—Ordered to be printed.

Mr. MALLORY submitted the following

REPORT.

*The Committee on Claims, to whom was referred the petition of Robert A. Wainwright, a captain in the ordnance department of the army of the United States, have had the same under consideration, and thereupon report:*

The petitioner prays to be reimbursed a sum of money stolen from his possession, in Boston, while he was acting as commandant of the arsenal at Watertown, Massachusetts, and for which he has accounted to the United States. The circumstances attending the loss of the money are detailed by the petitioner as follows:

That on or about the 1st of October, 1855, it having become necessary to draw upon the sub-treasury at Boston for the sum of \$1,765 for disbursement at the arsenal, your petitioner directed the said Burke to get the covered carriage, then in use at the arsenal, and drive to his headquarters for the purpose of taking himself and his brother, Samuel A. Wainwright, to Boston to procure said money; that on his arrival in Boston he alighted from the carriage, which was driven by Burke, took with him his travelling bag and went into the custom-house, and received from the sub-treasury department the said sum of \$1,765 in gold coin, which he deposited in his said bag, and, having locked it, started upon his return to the carriage, when he met said Burke at the lower steps of the custom-house, who took the bag from his hands and placed it in the front part of the carriage.

That your petitioner and his brother then got into the carriage, rode up State street, and stopped near Washington street, and there got out to attend to some business, leaving said Burke in care of the carriage and money—the money having been placed under the back seat of the carriage, which was a covered one, for safety—with instructions to Burke to be very careful of it; to drive up and stop at an apothecary's shop at the head of School street for some medicine ordered there; then to go to the toll-house on the mill-dam for the arsenal bills, and then to come to the Winthrop House for your petitioner and his brother—the Winthrop House being a near point on their way back to the arsenal at Watertown.

That on the arrival of the carriage at the Winthrop House the said Burke, who was driving it, appeared very much agitated, and reported that the travelling bag containing the money was gone.

He said, by way of accounting for its loss, that he had driven up Washington street into School street to the apothecary's shop, as directed; got out and got the bottle of medicine, and then drove through Beacon street to the toll-house and got the arsenal bills, which the toll-man handed to him without his getting out of the carriage; and that he then turned around and drove through Charles street, by the Common, to Boylston street, and stopped directly opposite the Winthrop House; that he then got out of the carriage, lifted up some coats and a blanket which had been thrown over the travelling bag, and, for the first time, discovered that the bag and the money were gone. He protested that he did not know when, where, or how it was taken; that he left the carriage but once—at the apothecary shop, in a crowded street—and then for not more than three minutes; and that no person came to it, to his knowledge, during his short separation from your petitioner and his brother; and that he could in no way account for the loss. He said that he had been often to Boston by direction of Captain Webber, and had drawn and brought away large sums of money from the sub-treasury to the arsenal, and had been intrusted with money to pay the arsenal bills in Boston and elsewhere, but never before had experienced the loss of any public money.

*Affidavit of Patrick C. Burke.*

I, Patrick C. Burke, of Watertown, in the county of Middlesex and State of Massachusetts, on the first day of October last, and before, a carriage maker of ordnance, and an enlisted man for nearly ten years past at the United States arsenal, in said Watertown, now under the command of Captain R. A. Wainwright, of said arsenal, on oath, depose and say: That on the first day of October, in the year eighteen hundred and fifty-five, I, by order of Captain Wainwright, got the covered carriage in use at the arsenal, and drove to Captain Wainwright's quarters, when the captain and his brother got in, and I drove them to Boston; stopped on Tremont street, at the head of School street; the captain got out and went into an apothecary's shop; he came back, got into the carriage, and rode down to Congress street, and went into a store; came out, got into the carriage, and I drove him and his brother to the custom-house; the captain there, with his brother, got out; I handed him his travelling bag, and he went into the custom-house; after being there about twenty minutes, the captain came out with his brother; I met him at the lower steps of the custom-house, and took the bag from his hands and placed it in the front part of the carriage; it appeared to be heavy, as if there was money in it; the captain then told me, here is a bill I want you to go and pay at the stable; but said, hold on, I will go, and stay in the carriage while you pay the bill. The captain and his brother then got into the carriage, and I drove them up to State street, and stopped near the old State House; the bag was in the

carriage when I left to go to the stable, and was in the same place when I got back ; the captain and his brother got out in State street ; Captain Wainwright told me to call up at the apothecary's shop, where he stopped in the morning, and get the bottle he had ordered, and go to the toll-house, on the mill-dam, and get the bill, and meet him at the Winthrop House ; he turned round and said, put that bag under the back seat and keep a good lookout for it. I put the bag under the back seat, and put the flap of the seat down, which entirely obscured the bag from sight, with the captain's and his brother's coats, and the blanket, in front of that seat ; and the curtains of the carriage being down, and the coats and blanket there, the bag was completely enclosed and out of sight. I then drove up Washington street into School street, to the apothecary's shop, and got out and got the bottle, and drove through Beacon street to the toll-house and got the arsenal bill, which the toll-man handed me without my getting out ; I then turned round and drove through Charles street, by the Common, to Boylston street, and stopped opposite the Winthrop House ; then got out and lifted the coats and blanket from before the seat for them to get in, and raised the flap of the seat to see if the bag was safe, and found it was gone ; when, where, or how it was taken, I do not know. No person came to the carriage to my knowledge, and I left the carriage but once, when I went to the apothecary's shop, and that was for about three minutes. I saw no person near the carriage when I went in or came out of the apothecary's.

I have often been to Boston, by direction of Captain Webber, to the sub-treasury, and taken out money, often in large sums ; and also have deposited checks in the sub-treasury, under Capt. Webber, when he had charge of the arsenal, and have been intrusted with money to pay the arsenal bills in Boston and elsewhere, and never before have experienced any loss of public money.

PATRICK C. BURKE.

It is shown, by affidavits, that Captain Wainwright made proper exertion, through the police, to recover the money ; and a police officer expresses the belief that it was stolen by two thieves then in Boston.

While sound policy, no less than justice, demands that a disbursing agent of the government should not be held responsible for money lost under circumstances involving no want of care and diligence in its safe keeping, the importance of the trusts necessarily devolved upon them demands that all such agents should, at least, guard, preserve, and watch over the public money committed to them as carefully as if it were their own. Their care and diligence should be those of a prudent owner. Your committee do not think that sufficient care was bestowed upon the money in question.

Burke, to whose custody the petitioner committed it, was his own servant ; an honest man, doubtless ; but in sending him off alone with the money in the carriage, directing him " to drive up and stop at an apothecary's shop, at the head of School street, for some medicines ordered there ; then to go to the toll-house on the mill-dam for

the arsenal bills, and then to come to the Winthrop House," &c., he devolved upon him (Burke) a duty which, as appears from Burke's testimony, rendered it necessary for him to leave the carriage, with the money in it, alone in the street, for about three minutes.

As the case is presented, your committee do not think the petitioner is entitled to the relief prayed.

I have often been to Boston, by direction of Captain Webster, to the sub-treasury, and taken out money, often in large sums; and also have deposited checks in the sub-treasury, under Capt. Webster, when he had charge of the arsenal, and have been interested with money to pay the arsenal bills in Boston and elsewhere, and never before have experienced any loss of public money.

PATRICK G. BURKE.

It is shown, by affidavit, that Captain Wainwright made proper exertion, through the police, to recover the money; and a police officer expresses the belief that it was stolen by two thieves then in the arsenal. While sound policy, no less than justice, demands that a disbursement of the government should not be left responsible for money lost under circumstances involving no fault of care and diligence in the safe keeping, the importance of the trusts necessarily devolved upon them demands that all such events should, at least, guard, preserve, and watch over the public money committed to them as carefully as if it were their own. Their careful diligence should be free of a private owner. For committee do not think that sufficient care was bestowed upon the money in question. It was his own money, and he was responsible for its safe keeping. It is not to be supposed that the committee do not think that sufficient care was bestowed upon the money in question. It was his own money, and he was responsible for its safe keeping. It is not to be supposed that the committee do not think that sufficient care was bestowed upon the money in question. It was his own money, and he was responsible for its safe keeping.